

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

James Devore,

Plaintiff,

v.

Case No. 2:17-cv-408

Gary Mohr, et al.,

Defendants.

ORDER

This is an action under 42 U.S.C. §1983 filed by plaintiff James Devore, an Ohio *pro se* inmate incarcerated at the Belmont Correctional Institution, against Director Gary Mohr and other employees of the Ohio Department of Rehabilitation and Correction. Plaintiff's claims stem from an altercation he had with another inmate he suspected of stealing his property. Plaintiff alleged that he was placed in solitary confinement in retaliation for his unwillingness to "snitch" on the other inmate, that defendants failed to adequately investigate the altercation, that defendants acted with deliberate indifference to his safety by failing to repair the chair thrown at him by the other inmate, where a sharp edge on the chair leg caused an injury to plaintiff's hand. Plaintiff also filed a motion to appoint counsel.

On May 26, 2017, the magistrate judge filed a report and recommendation on the initial screen of plaintiff's complaint pursuant to 28 U.S.C. §1915A, which requires the court, "in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity," to dismiss a complaint that fails to state a claim upon which relief may be granted. 28 U.S.C. §1915A(a)-(b)(1). The magistrate judge

concluded that plaintiff's complaint fails to state a claim upon which relief can be granted, and recommended that this action be dismissed and that plaintiff's motion for appointment of counsel be denied. See Doc. 4.

The report and recommendation specifically advised the parties that objections to the report and recommendation were due within fourteen days, and that the failure to object to the report and recommendation "will result in a waiver of the right to have the District Judge review the Report and Recommendation *de novo*, and also operates as a waiver of the right to appeal the judgment of the District Court adopting the Report and Recommendation." Doc. 4, p. 8. The time period for filing objections to the report and recommendation has expired, and no objections to the report and recommendation have been filed.

The court agrees with the report and recommendation (Doc. 4), and it is hereby adopted. This action is hereby dismissed pursuant to 28 U.S.C. §1915(e)(2)(B)(ii) because plaintiff's complaint fails to state a claim for which relief may be granted. Plaintiff's motion for appointment of counsel (Doc. 2) is denied. The clerk shall enter judgement dismissing this case.

Date: June 20, 2017

s/James L. Graham  
James L. Graham  
United States District Judge